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PATENT

Attorney Reference Number 4630-61733
Application Number 10/044,671

Remarks

By this Amendment, Claims 1, 4-7, and 9-11 are amended, and Claims 2, 22, and 27 are canceled. Applicants expressly reserve the right to pursue protection of any or all of the canceled subject matter in a subsequent application. No new matter has been added by these amendments. After entry of this Amendment, **Claims 1 and 4-13 are pending** in the application.

Telephone Interview

Applicants thank the Examiner for the courtesy of a telephone interview on February 19, 2004. Present at the interview were Examiner Sally A. Sakelaris, her mentor Examiner Jeffrey Fredman, and Applicants' representatives, Tanya M. Harding, Ph.D. and Yi-Kang Hu, Ph.D.

Claims 2, 11, and 22 were discussed during the interview. The Examiners agreed that Claim 2 should not have been rejected under 35 U.S.C. § 112, because the Office action states that the specification is enabling for a method of detecting ivermectin sensitivity in a canine subject. Applicants' representatives agreed to limit the claim to canine subjects in order to advance prosecution of the current application. The Examiners also accepted Applicants' proposed amendment to Claim 11 (deleting the phrase "comprising an *mdr1*-sequence") to clarify its dependency on Claim 1. Finally, the Examiners maintained the restriction requirement as regards Claim 22. Applicants agreed to this claim being canceled without prejudice.

Applicants acknowledge Examiner's Interview Summary dated February 25, 2004, with thanks.

Election/Restrictions Requirement

The Office action maintains the restriction requirement as regards Examiner's Groups I and V. Applicants herewith cancel Claims 22 and 27 without prejudice as drawn to subject matter not in the elected group.

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Rejections under 35 U.S.C. § 112

Claims 1, 2, and 4-13 were rejected under 35 U.S.C. § 112 because the specification allegedly does not reasonably provide enablement for detecting ivermectin sensitivity in any subject other than a canine subject.

Applicants traverse this rejection. However, in order to advance prosecution in the current application, Claims 1, 4-7, and 9-11 have been amended to insert "canine" as a modifier of the term "subject." Additionally, Claim 2 has been canceled as redundant in light of these amendments. After entry of this Amendment, the claims are all directed to use of the method in a "canine subject." Since this subject matter has been indicated as enabled, Applicants request that this rejection be withdrawn.

Claim 11 was further rejected under 35 U.S.C. 112, based on the phrase "an *mdr1*-sequence" in line 2 of the claim. During the telephone interview on February 19, the Examiners accepted Applicants' proposed amendment to delete the phrase "comprising an *mdr1*-sequence" in Claim 11, in order to clarify the claim language.

Claim 11 has been amended accordingly. Applicants believe that this amendment fully addresses this 35 U.S.C. § 112 rejection of Claim 11, and request that this rejection be withdrawn.

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Conclusions

In light of the above amendments and arguments, and for the reasons stated above, Applicants believe that the claims are in condition for allowance and request that a timely Notice of Allowance be issued in this case. The Examiner is requested to telephone the undersigned at the number listed below if it may expedite the issuance of the claims.

Respectfully submitted,

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By


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